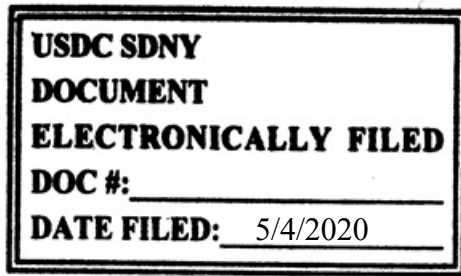




Douglas B. Lipsky

630 Third Avenue, Fifth Floor
New York, New York 10017
Main: 212.392.4772
Direct: 212.444.1024
Fax: 212.444.1030
doug@lipskylowe.com

www.lipskylowe.com



May 4, 2020

VIA ECF

The Honorable Stewart D. Aaron, U.S.M.J.
U.S. District Court for the Southern District of New York
500 Pearl Street
New York, New York 10007-1312

Re: Lantino et al., v. Clay LLC, et al., 1:18-cv-12247 (SDA)

Dear Magistrate Judge Aaron:

This firm represents the Defendants The Gym at Greenwich, LLC, The Gym at Port Chester Inc., The Gym at Union Square, LLC, Seth Hirschel, Stefan Malter and Barnet Liberman. We submit this letter to respectfully request Defendants' deadline to submit their opposition to the entry of the Consent Judgment be extended from May 6 to May 8, 2020. Defendants make this request because Individual Defendant Stefan Malter's wife is hospitalized with COVID-19 and Plaintiffs do not consent to the extension.

Malter is heavily involved in this case and is in frequent contact with my office. He, to that end, was well aware of the April 28, 2020 conference on whether Your Honor should enter the Consent Judgment. He was, however, largely silent between the conference and Friday, May 1. I learned on Friday why this is: his wife has been hospitalized battling COVID-19 and caring for his wife and kids is naturally consuming his energy and focus.

Shortly after learning this, I inquired with Plaintiffs' Counsel if Plaintiffs would consent to extend Defendants' deadline to file their opposition from May 6 to May 13, as Malter's attention is understandably elsewhere and I foresee needing that additional time to discuss our opposition with him, including his would-be sworn statement on his finances. Plaintiffs did not consent for two main reasons: Plaintiffs' financial condition; and that time is of the essence for Plaintiffs to secure their place in line as a creditor.

This morning was the first opportunity I had to meaningfully discuss the case with Malter since before the conference. He promised to make himself available to discuss Defendants' opposition and his finances but, with his wife still hospitalized, his availability and focus this week remain uncertain. Trying to strike a balance between both



The Honorable Stewart D. Aaron

May 4, 2020

Page 2 of 2

parties' needs, Defendants modified their request and asked if Plaintiffs would consent to extend the deadline from this Wednesday to Friday, May 8. Plaintiffs again did not consent but offered a false compromise: that Defendants can submit Malter's sworn statement on Friday but the opposition must be filed by Wednesday. That supposed compromise significantly reduces any opportunity for him to review and discuss with me the opposition prior to its filing— a pleading that could result in a \$1,000,000 judgment being entered against him.

With the parties at loggerheads, Defendants respectfully request that the Court extend their deadline to file their opposition from Wednesday, May 6, to Friday, May 8. Good cause exists for this extension. This is the first request to extend this deadline.

We appreciate the Court's consideration of this submission.

Respectfully submitted,
LIPSKY LOWE LLP

s/ Douglas B. Lipsky
Douglas B. Lipsky

CC: Orit Goldring (Via ECF)

ENDORSEMENT: Defendants' request is GRANTED IN PART and DENIED IN PART. Defendants' opposition shall be filed by May 6, 2020, as previously scheduled, and may be based on the assumption that Mr. Malter's financial condition is dire. Thereafter, no later than Thursday, May 7, 2020 at 11:59 p.m., Mr. Malter may file a declaration regarding his financial condition, as well as a supplemental letter setting forth any additional arguments he wishes to make. Plaintiffs' reply shall be filed no later than Monday, May 9, 2020, at 12 noon, but may be filed earlier. SO ORDERED.

Dated: 5/4/2020

A handwritten signature in blue ink, appearing to read "Stewart D. Aaron".